April 8, 2008

VIA ELECTRONIC SUBMISSION

Board of Governors
Federal Reserve System
20th and Constitution Avenues, NW
Washington, DC 20551

Docket Number: R-1305

Ladies and Gentlemen:

SAS Institute appreciates this opportunity to provide comment on aspects of the proposed rules to amend Regulation Z, which implements the Truth in Lending Act and Home Ownership Equity Protection Act (HOEPA). By way of background, SAS is the world's largest privately held software company, specializing in data integration and management, business intelligence, and analytics support, with a specialty in the financial services sector. Besides providing analytic capacity to comply with Basel II and Patriot Act anti-money laundering requirements, SAS also helps its financial services customers understand materiality, set priorities, and enhance risk controls associated with the Home Mortgage Disclosure Act, Community Reinvestment Act, Equal Credit Opportunity, and Home Ownership and Equity Protection Act, and more.

We offer the following comments in light of the expertise we have earned helping our customers develop processes, operations, and systems to comply with the fair lending laws, including HOEPA. Our comments touch four concerns within two main areas raised in the NPR: Proposals to Prevent Unfairness, Deception, and Abuse; and The Loosening of Underwriting Standards.

1. Proposals To Prevent Unfairness, Deception, and Abuse

A. Prohibit creditors from engaging in a pattern or practice of extending credit without regard to borrowers' ability repay from sources other than the collateral itself

SAS supports the proposal to prohibit a pattern or practice of lending without regard to the buyers ability to repay from sources other than the collateral. That said, we believe that the regulators should provide additional guidance as to what constitutes "ability to repay," and that such a reference should not be limited by an examination of one or two factors in isolation. Indeed, we assert that lenders should look at as many factors as feasible when determining a borrowers' ability to repay, and that they should look at those factors in context, relative to one another.

We agree with the proposed rule to "prohibit creditors from engaging in a pattern or practice of extending credit without regard to borrowers' ability repay from sources other than the collateral itself," with the opinion that many factors should be considered; and understanding the interaction of those factors is critical in helping to predict a borrowers' ability to repay a loan.

B. Require creditors to verify income and assets they rely upon in making loans

SAS supports any requirement that will result in improving information integrity. It is vitally important that lenders be able to render fact-based decisions. Therefore, it is important to establish a policy of checking all the facts and to have a policy in place to document actions taken. In addition, it is necessary to specify what qualifies as income, and the basis for estimating any components of income that may not yet be available e.g. annual bonuses, sales commissions, etc.

C. Require creditors to establish escrow accounts for taxes and insurance, but permit creditors to allow borrowers to opt out of esrows twelve months after loan consummation.

SAS supports this requirement because it will ensure a more accurate monthly obligation amount which in turn impacts the debt-ratio, months of reserves, and other underwriting factors. This is important because it will more accurately portray the borrowers' financial capacity.

2. The Loosening of Underwriting Standards

We agree that the "rising delinquencies have been caused largely by a combination of a decline in house price appreciation—and in some areas slower economic growth—and a loosening of underwriting standards."

As the accuracy and power of the FICO score continues to be debated, a more general framework that encompass all relevant factors that relate to the borrowers' ability to repay the loan will be required. Simply re-calibrating the existing models using recent foreclosure data will prove insufficient. What is needed is a systematic process that first seeks to categorize borrowers' based upon the qualification factors that are of primary concern. The second step is to bring in any other necessary information or business rules in order to render an accurate measurement of risk and an appropriate underwriting result. In this way, the choice of what factors are to be considered is not relegated to a model, rather it is subject to expert portfolio-specific judgment, proven credit principles, and information-based reasoning. Indeed, the best answer is neither art nor science, but rather the best of both combined. Science is represented by credit scoring, which is and has been a commonly used method of evaluating consumers for credit for decades.

The art of lending -prevalent prior to the 1960's- used loan officer judgment, with some guiding principles. By guiding principles, we mean the 5C's of credit: Character, Capacity, Capital, Collateral, and Conditions when evaluating a consumer loan request. This approach looked at the ability of the borrower to repay the loan through income (Capacity) and in the event of any interruption in income, their savings or liquid assets (Capital). It also considered the borrower's character by evaluating indicators of stability, his/her performance in meeting current and past credit obligations, and the liquidation value of any collateral and the borrower's equity share in cases where the loan collateral was the property being financed, e.g. real estate, automobile, boat, etc. Finally, conditions were considered that related to the general economic climate, and also the terms of the loan agreement, such as loan amount, interest and fees, and repayment schedule. This represented a comprehensive approach that had been validated over a long period of time.

We agree that the underwriting process can be improved upon greatly, and that "rising delinquencies have been caused largely by a combination of a decline in house price appreciation…and a loosening of underwriting standards." A comprehensive credit assessment framework would allow lenders to understand their risks; allow consumers to understand their creditworthiness, and increase transparency to allow regulators the ability, if desired, to drill down and see a more detailed picture of risks that have been undertaken by lenders.

Again, we appreciate the opportunity to provide comment to you and would be happy to provide any additional information that you or your counterparts may find useful.

Sincerely,

/s/ Clark Abrahams

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